

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
July 20, 2006
1:00 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, June 15, 2006 in Nashville, Tennessee at 9:30 a.m. Chairman John Jones, Commissioner Cynthia Bond and Commissioner Harlan Mathews were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, ASAC Andy Woodall, SA Matthew Larkins, SA Tina Jack and SA Stacey Fry from the staff were present.

1. The Minutes for June 15, 2006 Commission Meeting were approved.

2. RETAIL PACKAGE STORES

OLD BUSINESS:

**D. QUEEN CITY LIQUORS (currently doing business as Tiny Town
Package Store)
CLARKSVILLE, TENNESSEE (MONTGOMERY COUNTY)**

Licensee/Seller: Diane G. Willcox
Applicant/Buyer: Ashok K. Bhagchand

Before the Commission is a request for a transfer of ownership of the retail store currently located at 1477 Tiny Town Road in Clarksville, Tennessee. Mr. Bhagchand desires to purchase the retail store for \$35,000 plus the cost of existing inventory. Financing is based upon a line of credit with Legends Bank. If approved, the applicant would like to transfer the location of the store from 1477 Tiny Town Road to 1232 Tyler Town Road in Clarksville, Tennessee. It should be noted that all documents related to the transfer of ownership reflect the new location. All documentation has been submitted with the exception of the following:

- a. Newspaper notice and accompanying affidavit
- b. Written confirmation that other businesses the applicant owns does not have any liquor licenses;
- c. Use and Occupancy permit;
- d. TABC Inspection;
- e. Line of Credit document.
- f. Acknowledgement of the Rules and Regulations

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Discussion/Action Taken at June 20, 2006 Meeting:

Director Elks reviewed the application for the Commissioners. She stated that all documentation with the exception of the Use and Occupancy, TABC Inspection and acknowledgement of the Rules and Regulations had been submitted. She further stated that the proposed location has not yet been completed. The shell of the building is there. The interior of the building has not yet been completed.

Director Elks stated that this afternoon she received a phone call from the seller, Ms. Diane Wilcox, who has requested permission to continue to sell at the retail store until the applicant is ready to move to the new location. She stated that the Bill of Sale indicates that the sale is contingent upon the applicant receiving the license. However, no contact has been made with the purchaser as to his intentions.

Director Elks stated it is three-fold what the Commission needs to consider and that is to grant the license to the new applicant, permission to transfer locations or give permission for the licensee to continue to operate under the current license until the new license is issued.

Because confusion existed as to whether the buyer intended to begin operating the store at the current location or whether the current licensee would continue to operate, Commissioner Mathews made a motion to defer this matter to the July meeting. Chairman Jones seconded the motion and it passed with 2 ayes.

Discussion/Action Taken:

Mr. Ashok K. Bhagchand and Ms. Diane Willcox were present at the meeting. Director Elks reviewed the application for the Commissioners and stated that all documentation with the exception of the Use and Occupancy, TABC inspection had been received. Director Elks stated this matter had been continued because an issue existed regarding when Mr. Bhagchand would receive the ownership of the store--whether he wanted to continue the operation of the store at the current location or wait until the new location is completed. Mr. Bhagchand stated he would want the transfer to take effect when the new location was complete. He stated that it would be ready the first week of August, no later than August 10. Commissioner Mathews asked Ms. Willcox if she was planning to operate the business, and she stated that she would operate the business until Mr. Bhagchand receives his license.

Commissioner Mathews made a motion to approve the application upon receipt of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**A. 41-A LIQUOR
COWAN, TENNESSEE (FRANKLIN COUNTY)**

Licensee/Seller: Bobby Garner
Applicant/Buyer: Chris and Cari Fann

Before the Commission is a request for a transfer of ownership from Mr. Bobby Garner to Chris and Cari Fann. Mr. and Mrs. Fann intend to purchase the business from Mrs. Fann's uncle for \$138,000. The purchase price includes the inventory, real estate and good will. Financing is based upon a loan with Citizens Community Bank. All documentation has been submitted with the exception of the following:

- a. Deed to property.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the Deed to the property. Commissioner Bond made a motion to approve the application upon submission of the Deed to the property. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**B. CENTER POINT LIQUORS
HENDERSONVILLE, TENNESSEE (SUMNER COUNTY)**

Licensee/Seller: Center Point Liquors, Inc.
Stockholders: Winona Shaw
New Stockholder: Lynda Kae Shaw

Before the Commission is a request for a transfer of ownership of the retail store currently located at 1191 West Main Street, in Hendersonville, Tennessee. On May 7, 2006, Mrs. Winona Shaw passed away; her daughter, Lynda Shaw inherited all her assets and property of the estate—including the retail store. All documentation has been submitted with the exception of the following:

- a. Credit Check from bank; and
- b. Financial Background check.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She stated that all documentation had been received and she recommended approval. Commissioner Mathews made a motion to approve the application. Commissioner Bond seconded the motion and it passed with 3 ayes.

**C. HSC WINE AND LIQUOR
BRENTWOOD, TENNESSEE (WILLIAMSON COUNTY)**

Licensee/Seller: HSC, LLC
Stockholders: Robert Cirulli, James Maddox, and William Huffman
Applicant/Buyer: Jean Maddox

Before the Commission is a request for a transfer of ownership of the retail store currently located at 98 Seaboard Lane in Brentwood, Tennessee. Mr. James Maddox desires to sell his one-third interest in the LLC licensee to his wife, Mrs. Jean Maddox for \$90,000. Based upon Mrs. Maddox's questionnaire, financing is based upon personal funds. If approved, Mr. Cirulli, Mr. Huffman and Ms. Maddox would each own one third interest in the business. All documentation has been submitted with the exception of the following:

- a. Financial background check;
- b. Copy of line of credit referenced on back credit check;
- c. Verification of independent financing.

Discussion/Action Taken:

Mrs. Jean Maddox and Mr. William Cheek, III, attorney, was present at the meeting. Director Elks reviewed the application for the Commissioners. She stated that all documentation has been received and she recommended approval. Commissioner Mathews made a motion to approve the application. Commissioner Bond seconded the motion and it was approved with 3 ayes.

**D. P & L LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: Carlton Wright
Applicant/Buyer: John Chick

Before the Commission is a request for a transfer of ownership of the retail store to be located at 1501 Florida in Memphis, Tennessee. Mr. Chick desires to operate the store as a sole proprietorship. Purchase price of the business is

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\$230,000, and financing is based upon a gift in the amount \$250,000 from Patrick Boone. All documentation has been submitted with the exception of the following:

- a. Questionnaire from Patrick Boone or an affidavit stating he has no interest, directly or indirectly, in business;
- b. Financial background check on Patrick Boone;
- c. Financial check on John Chick.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission. She stated that initially Mr. Patrick Boone was giving Mr. John Chick a monetary gift of \$250,000 based on Mr. Boone's generosity and friendship to Mr. Boone during his high school years. Director Elks stated that the staff had concerns about this gift, because we had no information on Mr. Patrick Boone. The staff had informed Mr. Boone that by giving this gift to Mr. Chick income taxes must be paid on the \$250,000 and that was something Mr. Chick had not thought about at the time of this transaction. Therefore, they are restructuring the transaction as a loan from Mr. Boone to Mr. Chick. Director Elks stated that the staff had received an affidavit from Mr. Boone that he will not have any interest in this establishment directly or indirectly with the business other than the financing. Director Elks stated that the staff is doing a background check on Mr. Boone and a financial check on Mr. Chick. She suggested that if there were some anomalies associated with the background checks during the course of our investigation, the matter would be brought before the Commission at the next meeting; however, if there were none, then she would recommend approval. Commissioner Bond made a motion to approve the application. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**E. TODDY'S PACKAGE STORE
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Licensee: Toddy's Package Store, Inc.
Stockholder: Dorothy Cook and John Cook

Before the Commission is a request for a transfer of location of the retail store currently located at 4951 Kingston Pike in Knoxville, Tennessee. The licensee has submitted a request to transfer location to 4821 Kingston Pike in Knoxville, Tennessee. This request is based upon a desire to move to a location which is owned by the licensee. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy Permit;
- c. Letter from landlord acknowledging release.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission. Director Elks recommended approval upon receipt of the pending documents. She stated that the reason for requesting the letter from the landlord acknowledging release is because for a transfer of location if the lease is still valid for more than one (1) year, the landlord has to agree to the removal of the current lessee. Chairman Jones asked if there is every reason to think that the letter giving permission to vacate the premises will be granted. Director Elks stated that it will be granted. Chairman Jones made a motion to grant the transfer of location upon submission of the pending documents. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**F. TRINITY WINE AND SPIRITS
CORDOVA, TENNESSEE (SHELBY COUNTY)**

Licensee: Wray Rodgers
Applicant: Spirits of Trinity, LLC
Members: Wray Rodgers, Mike Rodgers and Don Rodgers

Before the Commission is a request to transfer ownership of the retail store located at 670 N. Germantown Parkway in Memphis, Tennessee. Mr. Rodgers desires to sell the business to Spirits of Trinity, LLC for \$662,000 with himself, Mike Rodgers and Don Rodgers as members. The purchase price represents the assumption of an outstanding loan with CIT Small Business Lending. If approved, Wray Rodgers and Don Rodgers would each own 45% of the business, and Mike Rodgers would own the remaining 10%. All documentation has been submitted.

Discussion/Action Taken:

Mr. Don Rodgers was present at the meeting. Director Elks reviewed the application to the Commission. Director Elks recommended approval. Commissioner Bond made a motion to approve the application. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**G. VINEA
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Chandler Madisen, LLC
Members: Bret Corrieri, Joseph Matlock, Kristen Maharrey, and Jack Purcell

Before the Commission is a request for a new retail store to be located at 2410 12th Avenue South in Nashville, Tennessee. Ms. Kristen Maharrey, Bret Corrieri, Joseph Matlock, and Jack Purcell desire to operate this business as an LLC, with each owning 25%. Ms. Maharrey will be investing \$60,000 through a home equity line of credit; Mr. Matlock--\$30,000 through existing personal funds; Mr. Purcell, \$30,000 through existing personal funds; and Mr. Corrieri--\$60,000 through personal funds. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations;
- c. Use and Occupancy Permit;
- d. Written permission of landlord to sublease;
- e. Affidavit from Mr. Corrieri that he no longer works at an LBD establishment and/or has no interest, directly or indirectly, in such; and
- f. Line of Credit for Ms. Maharrey.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission. Director Elks recommended approval upon submission of the following items:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations;
- c. Use and Occupancy Permit;
- d. Written permission of landlord to sublease;
- e. Affidavit from Mr. Corrieri that he no longer works at an LBD establishment and/or has no interest, directly or indirectly, in such; and
- f. Line of Credit for Ms. Maharrey.

Commissioner Mathews made a motion to approve the application upon submission of the pending documents. Chairman Jones seconded the motion and it was approved with 3 ayes.

3. WINERY

**A. CENTURY FARM WINERY
JACKSON, TENNESSEE (MADISON COUNTY)**

Applicant: Century Farm Winery, LLC
Members: Carl O’Cain and Jo O’Cain

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Before the Commission is a request for a new winery to be located at 1548 Lower Brownsville Road in Jackson, Tennessee. Carl and Jo O'Cain intend to initially invest \$200,000 in the business. This funding is based upon personal funds and investments. The winery has acreage for their grapes and blackberries. All documentation has been submitted with the exception of the following:

- a. Acknowledgment of the rules and regulations;
- b. Questionnaires on current forms.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners. She stated that all current questionnaires had been submitted and upon receipt of the acknowledgment of the rules and regulations she would recommend approval. Commissioner Bond made a motion to approve upon receipt of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**B. GRINDER'S SWITCH WINERY
CENTERVILLE, TENNESSEE (HICKMAN COUNTY)**

Applicant: Grinder's Switch Winery, Inc.
Stockholders: Joey and Gail Chessor

Before the Commission is a request for a new winery to be located at 2119 Highway 50 West Loop in Centerville, Tennessee. Joey and Gail Chessor intend to initially invest \$50,000 in the business. This funding is based upon personal funds and a bank loan with First National Bank for \$35,000. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the Rules and Regulations;
- c. Approval from the Department of Agriculture; and
- d. Source of fruit and grapes.

Discussion/Action Taken:

Mr. Joey Chessor and Mrs. Gail Chessor were present at the meeting. Director Elks reviewed the application to the Commissioners. Director Elks stated the staff has received the Approval from the Department of Agriculture. Mr. Joey Chessor stated that they have a 3½ acre vineyard that will be supplying most of their grapes.

Commissioner Mathews made a motion to approve upon receipt of the TABC inspection and acknowledgment of the rules. Commissioner Bond seconded the motion and it passed with 3 ayes.

3. CONTESTED CASES

a. ADMINISTRATIVE CITATION HEARINGS

1. Alethia Marie Maupin

On June 13, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Ruby Tuesday in Franklin. TABC Agent Jack issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Assistant Carolyn Smith stated that the administrative citation has been resolved and that Alethia Marie Maupin has paid the citation.

2. Tammie Annette Munn - continued

On May 23, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Betty's Parkway Restaurant. TABC Agent Larkins issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that an attorney for Tammie Annette Munn has contacted Director Elks and requested a continuance until the next Commission meeting. Assistant Director Smith stated that the staff does not have an objection to that. Commissioner Mathews made a motion to defer the matter to the August Commission meeting. Commissioner Bond seconded the motion and it passed with 3 ayes.

3. Alfredo Castillo—Continued from June Commission Meeting - Contined

On May 4, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Chapultepec. TABC Agent Fry issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Alfredo Castillo was present at the meeting. Assistant Director Carolyn Smith stated that she received a call a few hours ago from the attorney for the restaurant where Mr. Castillo works. He indicated that he had conversations with an attorney in Nashville who would be representing Mr. Castillo but was unable to make it today. The attorney is Dan Haskell. Assistant Director Smith indicated that she also had a phone call with Mr. Haskell prior to the phone with the attorney for the restaurant. Mr. Haskell told Assistant Director Smith that he was contacted, but that he told them that he was not able to make the meeting today. He told Assistant Director Smith that he was not necessarily representing Mr. Castillo. She stated that it was her understanding from the attorney that represents the restaurant that they wanted to continue the matter to the August Commission meeting. She stated that this came up at the last meeting and it was continued to today. Assistant Director Smith stated that she is not sure if Mr. Haskell will be representing Mr. Castillo. Commissioner Mathews made a motion to defer the matter to the August meeting. Commissioner Bond seconded the motion and it passed with 3 ayes. Chairman Jones stated to Mr. Castillo that the matter would not be deferred again.

4. Alfredo Cristino Fonseca

On June 13, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Mazatlan Mexican Restaurant. TABC Agent Jack issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Assistant Carolyn Smith stated that the administrative citation has been resolved and that Alfredo Cristino Fonseca has paid the citation.

b. SERVER PERMIT HEARINGS

Munyaradzi Chihombori

Mr. Chihombori has appealed the decision of TABC staff denying his application for a server permit, and has requested a hearing. The TABC staff denied Mr. Chihombori's application for a permit based on a felony vehicular assault conviction. The conviction date was August 26, 2004. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of a felony within four years of the date of the application.

Discussion/Action Taken:

Mr. Munyaradzi Chihoubori, Mr. Mark Spiceland and Ms. Jolanta Kathryn Saratie were present at the meeting. Assistant Director Carolyn Smith stated that Mr. Chihoubori submitted an application for a server permit on June 19, 2006. On the application he disclosed a felony conviction. The conviction date was August 26, 2004. She stated that pursuant to the law prohibiting the issuance of a server permit within four (4) years of a felony conviction, the application was denied and Mr. Chihoubori has appealed that denial to the Commission. Assistant Director Smith stated that in other instances where the Commission deferred a decision were the ones that would possibly be affected by the Bill that was before the Legislature the year before this past Session, which would potentially affect convictions that occurred more than four years ago but less than eight years. It is the convictions that would apply to the convictions that would prohibit a server card being issued within eight years of a conviction. There are certain felonies and other crimes that the law says that you cannot have a server permit before eight years has passed. She stated that Mr. Chihoubori is prohibited for four years so, therefore, he is not in that four to eight year window and he would not have to wait under any circumstances with this conviction. Commissioner Mathews made a motion to uphold the denial of the server permit card. Commissioner Bond seconded the motion and it passed with 3 ayes.

4. SPECIAL OCCASION LICENSES

5. CONSUMER EDUCATION SEMINAR LICENSES

6. PERSONNEL

- 7. BUDGET** – Director Elks stated that the TABC's budget is approximately \$4.8 million dollars, and that the agency over-collected by approximately \$300,000. She stated that the money would generally go to the General Fund in October when the accounts are closed out. She further stated that the staff wants to use that over collection for some one time purchases. Director Elks stated that the agents need new lap top computers as there computers are in the fifth year cycle. She stated that they would need 35 new lap tops. She also stated that their body armor needs to be updated and the staff wants to use some of the over collection to purchase the body armor.

8. CONSENT ORDERS

9. PENDING MATTERS LIST

10. MISCELLANEOUS

- a) Director Elks stated that the NCSLA Regional meeting is being held in New Orleans this year on October 15 – 17, 2006.

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- b) Chairman Jones noted that retail applications continue to be incomplete at the time of review by the Commission. Therefore Chairman Jones requested that retail applications be more complete before being placed on the agenda. Documents lacking should only be documents such as a Use and Occupancy permit and TABC Inspection.

11. DATE OF NEXT MEETING – August 17 and September 28, 2006 at 1:00 p.m.

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman